Supreme Court, U. S.
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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. **77-1692**

EDWARD RONWIN, Petitioner,

v.

THE SUPREME COURT OF
THE STATE OF ARIZONA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA

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Petitioner pro se

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1977

No.

EDWARD RONWIN, Petitioner,

v.

THE SUPREME COURT OF
THE STATE OF ARIZONA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO
THE SUPREME COURT OF THE
STATE OF ARIZONA

The Petitioner, Edward Ronwin, respectfully prays that a Writ of Certiorari issue to review the Judgment of the Supreme Court of the State of Arizona entered in this matter on November 15, 1977 which became final by said Court's Order entered March 9, 1978.

OPINION BELOW

The Judgment of November 15, 1977 is in the form of an Order whose text is reproduced in the Appendix (A-1).

JURISDICTION

The Judgment of the Supreme Court of Arizona was entered on November 15, 1977, (A-1). Subsequently, Petitioner's Petition for Rehearing was denied by Order of March 9, 1978, (A-9).

This Court's jurisdiction is invoked under Title 28, U.S.C. § 1257(3).

QUESTION PRESENTED

Are the criteria by which Respondent determines mental ability to practice law inconsistent with Petitioner's right to due process, equal protection of the law and to freedom of expression under the First, Fifth and Fourteenth Amendments to the United States Constitution?

STATUTES INVOLVED

The First, Fifth and Fourteenth Amendments to the United States Constitution (A-10). Vol. 17A, Ariz. Rev. Stat., Rules 28(c)III.7,(A-11) and Rule 28(c)IV. 3,(A-11).

STATEMENT OF THE CASE

On October 10, 1977, Petitioner filed an application for admission to the State Bar of Arizona. By agreement with the Committee on Character and Fitness of the Supreme Court of Arizona, said application was in the form of an affidavit bringing current the required data since Petitioner's previous application. Three previous applications have been denied on the grounds that Petitioner is "not mentally able" to practice law, Application of Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976). The Committee declined to act on the application and requested in-

structions from the Chief Justice of Arizona.

Without prior notice or an opportunity to be heard and to confront adverse witnesses and evidence, Respondent denied Petitioner's application by its Order of November 15, 1977 (A-1). Furthermore, said Order erects a special procedure for future applications by Petitioner. Petitioner was granted additional time to file a Motion for Rehearing and did timely file said Motion on December 19, 1977.

In the meantime, an Order of the Iowa Supreme Court which declared Petitioner mentally capable of continuing as an active, practicing lawyer in Iowa, Appendix (A-4) first came to Petitioner's notice on December 5, 1977. The Iowa Order was incorporated into Petitioner's Motion for Rehearing which advanced two themes: (1) that Respondent's Order of November

15, 1977 denies Petitioner due process and equal protection of the law; and (2) that the Iowa Supreme Court's Order was equivalent to a showing of a "substantial change." On January 4, 1978, Respondent granted oral argument but not rehearing. On February 1, 1978, Petitioner moved Respondent for an Order Directing Issuance of Subpoenas In Aid of Discovery. Respondent denied said Motion on February 8, 1978. Oral argument was had on March 9, 1978. No Bar representative spoke in opposition or was present. Respondent denied Petitioner's Motion for Rehearing on March 9, 1978, without comment (A-9).

REASONS FOR GRANTING THE WRIT

The importance of the question presented is best considered with the elements of the controversy in the background.

The Iowa Supreme Court and the Arizona Supreme Court each arrived at their respective Orders (A-1;A-4), after having before them the same record of their own and the other Court's proceedings and filed materials. This consisted, inter alia, of the testimony of five, "Board-certified," M.D.-Psychiatrists, given between 1974 and mid-1977. All M.D.'s agreed that Petitioner is not paranoid nor a paranoid personality; nor mentally ill; and, each declared Petitioner mentally able to practice his profession: Law.

The Order of the Iowa Supreme Court shows cognizance of the findings of the Special Committee appointed by Respondent to hear the matter and of Respondent's decision, App. of Ronwin, (A-4). The Iowa Bar counsel drew an equivalence of issue before the Iowa Supreme Court

and that before the Arizona Supreme Court; i.e., Petitioner's mental ability to practice law. The nine-member Iowa Supreme Court briefly and without qualification or dissent rejected said Special Committee's findings and the conclusion of the Arizona Supreme Court's decision in App. of Ronwin, (A-4).[1] In Iowa, a practicing attorney who becomes mentally incapacitated must be suspended until capacity returns, Iowa Code Anno.§610 App. Rule 118.16 (pertinent portion reproduced in the Appendix, A-13). That rule under which the Iowa Supreme Court Order in

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[1]Although, the Iowa Court had a practicing bar member before it and the Arizona Court had a bar applicant, the rule in Arizona applies the same standard to both categories, Vol. 17A Ariz. Rev. Stat., Rule 29(b)(8) and (9), Appendix (A-15).

this case was promulgated, (A-4), recognizes that mental incapacity to engage in the practice of law is a medical problem and that such infirmities are best left to medical experts to diagnose, treat and pronounce cure (A-13).

On the other hand, the Arizona Supreme Court has declared the existence of a new mental condition--one which need not "...rise to the level of medically recognized and categorized mental disorders," App. of Ronwin, supra, p. 317. That condition is alleged to be marked by "... long-standing personality traits [which] indicate an obvious inability to get along with authority figures under situations of minor stress and conflict," App. of Ronwin, supra, p.317. Another alleged trait is that of reacting with more than "normal repugnance" to anti-semitism, App. of Ronwin, supra, p.317,

footnote 1.

Without hearing; with denial of the right to confront adverse witnesses and denial of discovery; with total disregard of the testimony of five medical experts resulting from observations on Petitioner made over a 3 1/2 year period and with no obvious concern for the contrary view of the Iowa Supreme Court (A-4) or that of the eighteen practicing attorneys in Arizona who held that Petitioner was mentally able to practice law based on personal, professional association, Respondent insists that Petitioner continues to be afflicted with this newly declared mental condition (A-1) and Respondent denies Petitioner's application on the grounds that Petitioner has not shown a "substantial change."

The showing of a "substantial change"

is impossible. The symptoms of the new mental condition are vague and ambiguous. It may be that "not getting along" would justify the parties involved in refusing to associate with each other, but that cannot justify refusal to license otherwise capable and mentally sane persons. Nor does the Federal Constitution provide for a privileged class of "authority figures" who must be gotten along with--a euphemism for the prohibition of criticism of said "authority figures." The elements required for a "substantial change" cannot be discerned;nor,is it possible to determine from the decision in App. of Ronwin nor from the Orders of November 15, 1977 and March 9, 1978 (A-1;A-9), who is qualified to diagnose, treat and pronounce cure of the newly declared mental condition. Since the overwhelming medical testimony is shun-

ned by the Arizona Supreme Court, as is the stated requirement of Arizona Bar admission rule, Vol. 17A, Ariz. Rev. Stat., Rule 28(c)III.7 (A-11), the matter is left to unidentified or unclassified laymen, untrained in medical process and mental function, to decide whether or not the "non-medical" mental illness is present, how it is to be treated and when it is cured.

Respondent's alleged disease reduces to a mechanism whereby the First Amendment right to disagree with public officials free from reprisal against one's constitutional rights under the Fifth and Fourteenth Amendments to pursue a profession, Greene v. McElroy, 360 U.S. 474, 492, 79 S.Ct. 1400, 1411 (1959); Schware v. Board of Examiners of New Mexico, 353 U.S. 232, 238, 239, 77 S.Ct. 752, 756 (1957); Baird v. State Bar of

Arizona, 401 U.S. 1, 6, 91 S.Ct. 702, 706 (1971), are left, in the legal arena, to the whims of Bar officials.

Importance of the Question Presented

Because five other professions in Arizona require mental ability or competence for either initial licensing or renewal, but do not mandate a determination of the mental incapacity by psychiatric or medical examination, the standard of App. of Ronwin, carries over to these professions (see Appendix for identity of the applicable statutes, A-16). Other jurisdictions may be tempted to adopt the Arizona standard rather than that of Iowa, supra, with the effect that in such jurisdictions as in Arizona, non-psychiatrically trained laymen, in whatever profession, need only pin a label of "mentally unable" upon license applicants or practitioners which need not stand the test of medical

determination and confirmation, and by which label a person can be excluded from practicing or qualifying to practice a profession.

Respondent's theme also bodes fair to provide virtually unassailable cover for the exercise of racial, religious, ethnic or other invidious bigotry; elements of which impregnate instant cause.

This nation depends heavily upon professional skills and their interplay to maintain its global preeminence. Progress in technology, science and other professions, including law, means a willingness to step forward with new ideas and criticism. Respondent's thesis would chill all expressed thought as a condition for entrance to and continuence in the practice of a profession, except that thought approved by "authority figures."

This case exemplifies the result of Respondent's thesis: A citizen held perfectly sane by five, qualified psychiatrists and by eighteen, actively practicing Arizona attorneys based on close association, and by the Iowa Supreme Court (A-4), is told he is "mentally unable" and continues to be told that he has not shown a "substantial change" when no parameters are even remotely apparent by which the "non-medical" mental condition can be diagnosed, treated or by which a "substantial change" can be rationally measured.

The Arizona Supreme Court's position offends due process, equal protection of the law, freedom of speech and elemental fair play in violation of the First, Fifth and Fourteenth Amendment rights of Petitioner and threatens those same rights of numerous other Americans.

For the reasons discussed in the preceding, it is respectfully urged that this Court grant the Writ of Certiorari sought hereby.

Respectfully submitted,

By Edward Ronwin

May, 1978.

APPENDIX

IN THE SUPREME COURT

OF THE STATE OF ARIZONA

FILED: NOV.15,1977

In the Matter of)
) Supreme Court No.
EDWARD RONWIN) SB-52-5

O R D E R

Due to pending litigation brought by Edward Ronwin against members of this Court's Committee on Character and Fitness,

IT IS ORDERED relieving said members, G. David Gage, Chairman, Richard A. Segal, Vice Chairman, Robert D. Myers, Philip E. Toci, Richard Davis, Robert C. Moody and Ann Bowen, and any future members of said Committee, of any and all responsibility concerning Edward Ronwin's current and future applications for admission to the State Bar of Arizona.

FURTHER, IT IS ORDERED that said Committee and its members, present and fu-

ture, are prohibited from accepting for filing any further applications for membership in the State Bar of Arizona from Edward Ronwin. All such future applications by Edward Ronwin shall be filed directly with this Court for futher processing by a Special Committee.

As to the pending application of Edward Ronwin to be admitted to the State Bar of Arizona dated 10 October 1977, accompanied by affidavit of same date, there has been no showing of substantial change in the physical or mental condition of petitioner since the decision of this Court in In Re Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976).

THEREFORE, IT IS ORDERED that the application of Edward Ronwin for admission to the State Bar of Arizona is DENIED.

DATED THIS 15th day of November,1977.

/s/ James Duke Cameron
JAMES DUKE CAMERON,
Chief Justice

Copies mailed this 16th

day of November, 1977 to:

Mr. Edward Ronwin

Mrs. Doris Odom

Committee on Character and Fitness

(all members):

G. David Gage, Chairman

Richard A. Segal, Vice Chairman

Robert D. Myers

Philip E. Toci

Richard Davis

Robert C. Moody

Ann Bowen

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF EDWARD RONWIN, a practicing lawyer in the State of Iowa	FILED:Sep.14,1977 NO. 60678 ORDER

Pursuant to Court Rule 118.16, the Committee on Professional Ethics and Conduct of the Iowa State Bar Association filed a report concerning Edward Ronwin, who was admitted to the practice of law in this State on June 13, 1974. The report asks that he be suspended from practice because of mental incapacity.

A hearing was held before the full court on June 22, 1977, at which time both the Committee and Mr. Ronwin introduced evidence and were heard in oral argument.

The Committee does not claim Mr. Ronwin has been guilty of professional misconduct in this State since his admission to the bar. The request for his sus-

pension is based upon proceedings in the State of Arizona, where, after failing a first time, he was denied permission to take the bar examination again because the Arizona Special Committee on Examinations and Admissions found he was suffering from a "paranoid personality disorder" which rendered him "not mentally able to engage in the active and continuous practice of the law." This finding was made under Arizona Supreme Court Rule 28(c)IV(3), which imposes upon an applicant as a prerequisite to admission to the practice of law the burden of establishing he is mentally able to engage in active and continuous practice of law.

On Ronwin's appeal from this determination the Arizona Supreme Court also denied him permission to take the bar examination. See In the Matter of the Application of Edward Ronwin, 555 P.2d

315 (Ariz. 1976).

The request now before us asks that Mr. Ronwin be suspended under the following provision of our rule 118.16:

> "In event an attorney shall at any time in any jurisdiction be duly adjudicated a mentally incapacitated person, or an alcoholic, or a drug addict, or shall be committed to an institution or hospital for treatment thereof, the clerk of any court in Iowa in which any such adjudication or commitment is entered shall, within ten days thereafter, certify same to the clerk of this court.
>
> "Upon the filing of any such certificate or a like certificate from another jurisdiction this court may enter an order

suspending the license of such attorney to practice law in this state until further order of this court.***"

We find no cause for suspending Mr. Ronwin under our rule. The Arizona Special Committee on Examinations and Admissions is an administrative agency whose sole duty is to decide who is qualified for admission to the bar of that State. Its determination that an applicant should not be permitted to take the Arizona bar examination because of a personality disorder is not alone sufficient to permit a finding such applicant is a mentally incapacitated person under rule 118.16.nor to suspend one who has already been admitted to practice law in this State.

The request that Edward Ronwin be suspended from practice in this State is

therefore denied.

Dated at Des Moines, Iowa, this

14th day of September, 1977.

THE SUPREME COURT OF IOWA

/s/ C. Edwin Moore
C. Edwin Moore
Chief Justice

IN THE SUPREME COURT

OF THE STATE OF ARIZONA

FILED: MAR.9,1978
Supreme Court
No. SB 52-5

IN THE MATTER OF)
)
EDWARD RONWIN)
)

O R D E R

The Court having heard Oral Argument this date,

IT IS ORDERED: Motion for Rehearing = DENIED.

DATED this 9th day of March, 1978.

/s/ James Duke Cameron
JAMES DUKE CAMERON
Chief Justice

TO: Mr. Edward Ronwin
Box 2527
Scottsdale, Arizona 85252

State Bar of Arizona
234 North Central, Suite 858
Phoenix, Arizona 85004
Attn: Mrs. Doris Odom

G. David Gage, Chairman
Committee on Character and Fitness
234 North Central, Suite 858
Phoenix, Arizona 85004

The applicable provisions of the First, Fifth and Fourteenth Amendments:

First Amendment:

"Congress shall make no law... abridging the freedom of speech..."

Fifth Amendment:

"No person shall...be deprived of life, liberty, or property, without due process of law..."

Fourteenth Amendment:

"...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Pertinent Parts of Arizona Bar Admission Rules:

Vol. 17A, Ariz. Rev. Stat., Rule 28(c) III.7:

"The following papers must accompany every application: ***

7. Certificate of a licensed physician that the applicant is mentally and physically able to engage in the active and continuous practice of law." ***

Vol. 17A, Ariz. Rev. Stat., Rule 28(c) IV.3:

"On the basis of a properly completed application timely filed the applicant will be entitled to sit for the bar examination.

"No applicant for admission to the State Bar of Arizona shall be recommended for admission by the Committee on Character and Fitness un-

less the Committee is satisfied:

* * *

"3. That he is mentally and physically able to engage in active and continuous practice of law;"

* * *

A pertinent portion of Iowa Supreme Court Rules:

Iowa Code Anno., §610 App. Rule 118.16:

* * *

"The filing of an application for reinstatement to active status by an attorney suspended due to disability shall constitute a waiver of any doctor-patient privilege with regard to any treatment of the petitioning attorney during the period of his or her disability. Such attorney shall also set forth in his or her application for reinstatement the name of every psychiatrist, psychologist, physician and hospital or any other institution by whom or in which the petitioning attorney has been examined or treated since his or her suspension due to dis-

ability, and shall also furnish to this Court written consent that any such psychiatrist, psychologist, physician and hospital or other institution by whom or in which the petitioner has been examined or treated as aforesaid may divulge any and all information and records requested by this Court or any Court-appointed medical experts."

* * *

Arizona Rules equating bar member and bar applicant mental and moral standards: Vol 17A, Ariz. Rev. Stat., Rule 29(b):

"Grounds for disbarment, suspension or censure of members shall be as follows:

* * *

"8. Failure to maintain such special mental and moral fitness as would have entitled the member to admission in the first instance.

"9. Any action or omission, either related or unrelated to the practice of law, indicating mental or moral unfitness to continue the practice of law."

Identity of professions (other than the law), and applicable statutes in Arizona, which require mental ability or competence for initial licensing or for continuence in practice, but do not mandate the determination of mental incapacity by psychiatric or medical examination:

Dentists: Ariz. Rev. Stat., §32-1263 (A)(3).

Medicine/Surgery: Ariz. Rev. Stat., §32-1451(A).

Nursing: Ariz. Rev. Stat., §32-1663(D)(5).

Osteopathic Physicians: Ariz. Rev. Stat., §32-1855(A).

Physical Therapists: Ariz. Rev. Stat., §32-2042(4).